

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOSE IRAEL ALVAREZ,

Petitioner,

vs.

DWIGHT NEVEN, et al.,

Respondents.

Case No. 3:15-cv-00363-RCJ-WGC

**ORDER**

Before the court are petitioner's motion for leave to file a longer than normal federal habeas corpus petition (#18) and petitioner's motion for leave to file an amended habeas corpus petition (#20). Respondents do not oppose the latter motion, but note that they do not waive any procedural defenses to the amended petition. The court will grant these motions.

Also before the court are petitioner's motion for reconsideration (#9) of this court's denial of petitioner's motion for appointment of counsel. After reviewing the amended petition, the court determines that appointment of counsel would be useful in this case, petitioner is unable to afford counsel, and the court grants this motion. See 18 U.S.C. § 3006A(a)(2)(B).

Finally, respondents have filed a motion to dismiss (#12), petitioner has filed a motion for leave of court to stay and abey his amended habeas corpus petition (#19), and respondents have filed a motion for enlargement of time to respond to petitioner's motion (#21). These motions are moot because the court is appointing counsel, who will have the opportunity to file a second amended petition.

1 IT IS THEREFORE ORDERED that petitioner's motion for leave to file a longer than  
2 normal federal habeas corpus petition (#18) is **GRANTED**.

3 IT IS FURTHER ORDERED that petitioner's motion for leave to file an amended habeas  
4 corpus petition (#20) is **GRANTED**. The clerk of the court shall file the proposed amended  
5 petition.

6 IT IS FURTHER ORDERED that petitioner's motion for reconsideration (#9) is  
7 **GRANTED**. The Federal Public Defender is provisionally appointed to represent petitioner.

8 IT IS FURTHER ORDERED that the Federal Public Defender shall have thirty (30) days  
9 from the date that this order is entered to undertake direct representation of petitioner or to indicate  
10 to the court his inability to represent petitioner in these proceedings. If the Federal Public Defender  
11 does undertake representation of petitioner, he shall then have sixty (60) days to file an amended  
12 petition for a writ of habeas corpus. If the Federal Public Defender is unable to represent petitioner,  
13 then the court shall appoint alternate counsel.

14 IT IS FURTHER ORDERED that neither the foregoing deadline nor any extension thereof  
15 signifies or will signify any implied finding of a basis for tolling during the time period established.  
16 Petitioner at all times remains responsible for calculating the running of the federal limitation period  
17 under 28 U.S.C. § 2244(d)(1) and timely asserting claims.

18 IT IS FURTHER ORDERED that the clerk shall add Adam Paul Laxalt, Attorney General  
19 for the State of Nevada, as counsel for respondents.

20 IT IS FURTHER ORDERED that the clerk shall electronically serve both the Attorney  
21 General of the State of Nevada and the Federal Public Defender a copy of the amended petition and  
22 a copy of this order.

23 IT IS FURTHER ORDERED that respondents' counsel shall enter a notice of appearance  
24 within twenty (20) days of entry of this order, but no further response shall be required from  
25 respondents until further order of the court.

26 IT IS FURTHER ORDERED that any exhibits filed by the parties shall be filed with a  
27 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF attachments that  
28 are filed further shall be identified by the number or numbers (or letter or letters) of the exhibits in

1 the attachment. The hard copy of any additional state court record exhibits shall be forwarded—for  
2 this case—to the staff attorneys in Las Vegas.

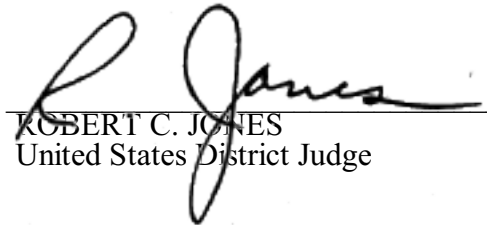
3 IT IS FURTHER ORDERED that respondents' to dismiss (#12) is **DENIED** as moot.

4 IT IS FURTHER ORDERED that petitioner's motion for leave of court to stay and abey his  
5 amended habeas corpus petition (#19) is **DENIED** as moot.

6 IT IS FURTHER ORDERED that respondents' motion for enlargement of time to respond  
7 to petitioner's motion (#21) is **DENIED** as moot.

8 Dated: This 27th day of January, 2016.

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ROBERT C. JONES  
United States District Judge